ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INDIAN HARBOR INSURANCE COMPANY, Index No. 08-cv-2004 NRB

Plaintiff,

v.

2420 PROSPECT AVENUE CORP. and LISA SOSA,

Defendants.

ORDER

WHEREAS, Plaintiff Indian Harbor Insurance Company ("Indian Harbor"), commenced this action seeking a declaration that it owes no coverage to defendants 2420 Prospect Avenue Corp. ("2420 Prospect") and Lisa Sosa with respect to an underlying action entitled *Lisa Sosa v. 2420 Prospect Avenue, Corp.*, Index No. 7319/07, Supreme Court of the State of New York, Bronx County (the "*Sosa* Action") under Indian Harbor insurance contract number WFI3001265 (the "Indian Harbor Insurance Contract"), and

WHEREAS, defendants 2420 Prospect and Lisa Sosa were served with the pleadings in accordance with the New York Civil Practice Law and Rules Section 308, and

WHEREAS, Lisa Sosa defaulted by failing to respond to the complaint to date, and

WHEREAS, 2420 Prospect has agreed and admits that there is no coverage under the Indian Harbor Insurance Contract for the *Sosa* Action, and

WHEREAS, 2420 Prospect and Indian Harbor has further agreed that Indian Harbor may withdraw the defense counsel that has been provided to 2420 Prospect in the *Sosa* Action to date.

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and 2420 Prospect and Indian Harbor have agreed that no costs will be sought by either party with respect to this action or the *Sosa* Action, and

WHEREAS, Indian Harbor, at the request of this Court, has duly served an order to show cause on defendants Lisa Sosa, through her attorneys Crasto & Associates P.C., and 2420 Prospect by facsimile, as directed by this Court, thereby putting defendants on further notice that this Order would be entered by the Court; and

WHEREAS no response to the Order to Show Cause has been filed or received

IT IS HEREBY

Ordered, adjudged and decreed that Indian Harbor owes no coverage and Indian Harbor has no duty to defend or indemnify defendants 2420 Prospect or Lisa Sosa for any claims based on, related to and/or arising out of the *Sosa* Action, and it is further

Ordered, adjudged, and decreed that Indian Harbor MAY withdraw the defense it has been providing as a courtesy to 2420 Prospect to date in the Sosa Action, and it is further

Ordered, adjudged and decreed that this action is dismissed and the clerk is directed to enter judgment accordingly.

Dated: ~~July~~ August 7, 2008

SO ORDERED,

[signature]

Hon. U.S.D.J. Naomi Reice Buchwald

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